

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

DARRELL T. ANDERSON-BEY,)	
)	
Petitioner,)	
)	
v.)	1:23CV83
)	
TODD E. ISHEE, et al.,)	
)	
Respondent.)	

ORDER

The Recommendation of the United States Magistrate Judge was filed with the Court in accordance with 28 U.S.C. § 636(b) and, on February 2, 2023, was served on the parties in this action. (ECF Nos. 2, 3.) Petitioner filed objections to the Magistrate Judge's Recommendation. (See ECF No. 4). The Court has appropriately reviewed the Magistrate Judge's Recommendation and has made a *de novo* determination in accord with the Magistrate Judge's Recommendation. The Court therefore adopts the Magistrate Judge's Recommendation.

IT IS THEREFORE ORDERED that this action be construed as a habeas petition under 28 U.S.C. § 2254 and **DISMISSED** *sua sponte* without prejudice to Petitioner filing a new petition which corrects the defects of the current Petition. The new petition must be accompanied by either the five-dollar filing fee or a current application to proceed in forma pauperis.

This, the 21st day of February 2023.

/s/ Loretta C. Biggs
United States District Judge